

Diversity Dialogue: Sheila Sproule

John Caher: Welcome to Amici, News and Insight from the New York Courts. I'm John Caher.

Today, we're joined by Sheila Sproule, Executive Director of the ADR Inclusion Network and a member of its Steering Committee. Sheila is a management analyst in the court system's Office of Alternative Dispute Resolution Programs. She serves as Coordinator of the Parent Education and Awareness Program.

Sheila is past president of the Association for Conflict Resolution for Greater New York. She's also a former adjunct professor at Fordham Law School's Mediation Clinic, where she served for 10 years. She is a graduate of Fordham College and Fordham Law School.

John Caher: So, Sheila, thank you for joining us. Let's jump right in. Why is diversity and inclusion in ADR important? Why does it matter?

Sheila Sproule: Well, good morning and thank you, John. I think there are a lot of reasons why diversity inclusion is important in the ADR field and even within ADR processes.

In ADR processes, such as mediation, for example, the mediator acts as a third party neutral, which means that the mediator's role is simply to facilitate a discussion between the parties so that they can decide how or if to resolve their case. The process is confidential and occurs behind closed doors. So the invisibility of the mediator's work to anyone but the parties raises the importance of trust placed on the mediator to conduct a fair and supportive process. This is important because doing so allows a mediator to create an environment that feels fair and inclusive to all parties.

To add to that, we all have different perceptions of situations. We make different assumptions, use words differently, have different values, beliefs and traditions by virtue of our lived experiences. Therefore, it's important to have diverse backgrounds represented in a field where perceptions and experiences are an important part of the work itself. Finally, I think that the field should just reflect the diversity of the communities that we serve.

John Caher: So it's not only a substantive issue, but an issue of appearances, of confidence of when you go into an ADR session that you see someone

who might have a similar story, a similar background and a similar language. Is that correct?

Sheila Sproule: I believe so. That models the principle of mediation where we say it's important to act and behave impartially, but it's also important that the parties *perceive* that you're acting and behaving impartially.

John Caher: That's interesting because the ADR process is basically one of confidence, right? You have to have confidence that it's working and that it's fair. The difference between that and litigation is there is not necessarily a winner and a loser, right?

Sheila Sproule: Right, exactly right. The parties themselves have to feel comfortable enough to have that conversation and to be able to work through their differences with the mediator's input, but the presence of the mediator can impact how the parties proceed and how they choose to move forward or not move forward.

John Caher: Thank you for that explanation. As you well know, Chief Judge DiFiore has instituted a presumptive ADR program to, in her words, "make presumptive early ADR the accepted norm in our civil courts." So, what are the implications of that initiative and how does that initiative tie in with the chief judge's commitment to diversity?

Sheila Sproule: Since the Chief Judge's initiative presumes that most civil cases are eligible for dispute resolution, I think the practical implication is that the first court interaction most parties will have stepping into court, whether it's virtually or otherwise, will be with the court roster mediator, a neutral evaluator or another ADR practitioner. So because of that, it's important that ADR diversity and inclusion within a court setting, although I think it's important outside as well, should mirror the same values that apply as, say, the Office of Diversity and Inclusion's mission for the courts workforce.

It's important that court roster ADR professionals reflect the communities that they serve, and that means that we're committed to ensuring that applications to serve on court rosters contain diversity statements, that efforts are made to recruit diverse training providers and diverse mediators, as well as diverse speakers on panels, and that best practices are shared statewide.

John Caher: I see. Now what is your role vis-a-vis the heightened focus on ADR?

Sheila Sproule: I work within the ADR office, which is led by Lisa Courtney, the Statewide ADR Coordinator, and our role is to support this new initiative and focus on the training needs that those that are implementing the initiative need. There's an ADR advisory committee that creates what they'd like to see throughout the state in terms of expanding ADR, which is of course approved by the Chief Judge. Then there are three special counsel (for the Deputy Chief Administrative Judges' offices within and outside NYC) who have been appointed throughout the state that, along with ADR coordinators in courts statewide, actually implement it.

So we're there as support staff to figure out what ADR process trainings they need, how to share best practices, how to bring them together so we can support whatever they need, whether it's diversifying their roster or sharing forms, or reaching out to local bar associations to get their support for those rosters.

John Caher: It sounds like you do all the behind the scenes work that makes this operate as seamlessly as it does.

Sheila Sproule: Well, I would say our office does. I'm definitely part of a team, and under Lisa's leadership we have accomplished a lot. It's an exciting time for us to see the fruits of our efforts being utilized and accepted around the state.

John Caher: That is a great feeling. Now, what is the ADR Inclusion Network?

Sheila Sproule: Sure. The ADR Inclusion Network is an all-volunteer membership group comprised of local New York dispute resolution resolvers who serve as directors and staff, private and public dispute resolution organizations, or court rosters. It also includes academics, practitioners and leaders and members of bar association diversity committees.

A fundamental belief that we have is that diversity is critical to the ADR field, obviously. If I could just define the way that we look at that, I would just quote from what we have that's on our website: "The fundamental concept that neutrals with a wide variety of cultural and life experiences based upon characteristics, such as gender, race, ethnicity, age, sexual orientation, and disability enrich the ADR process by bringing diverse perspectives to resolving disputes. These perspectives stem from a range of personal and professional backgrounds that in practice may better serve, instill confidence in and create greater perceived fairness in the ADR processes offered by, for example, better reflect in the community served by the neutrals or providing normatively better outcomes for the end users of those ADR processes."

John Caher: I see. Now the network pledges, and I quote, to "work proactively to increase ADR utilization and increased representation of diverse neutrals in New York state." So how do you do that?

Sheila Sproule: Well, there are a lot of ways we try to accomplish that. We are often invited to co-sponsor other ADR events for various audiences and members are even asked to join panel discussions or do presentations or CLEs related to diversity inclusion. We use those opportunities to also share our work with others. We post resources on our website, including what other states or professions are doing in diversity and inclusion. We write articles or blogs on these topics and have started a best practices series, starting with how to make your events more inclusive. We have a listserv and we share important developments and upcoming events and trainings and ADR scholarship opportunities with each other, and we're currently working on creating a diverse speakers' list to be housed on our website, which would include talented professionals who could speak about ADR, and then would also help ensure that program panels are as inclusive as possible.

We're creating a tip sheet for arbitrators to hand out to parties and their counsel, highlighting the benefits of having a diverse panel of arbitrators. We're also working on a shadowing club for newer practitioners to gain experience and knowledge by observing and interacting with a mentor.

John Caher: So there's a whole lot going on in this tent of yours.

Sheila Sproule: Yeah. There really is. There's so much to do.

John Caher: I'm sure there is. Now, is The Inclusion Network mainly in New York City thing, or do you function throughout the state?

Sheila Sproule: Currently, the members are comprised of New York City members, but our aim and what we continue to aspire to be is a statewide entity. So that's a work in progress, and we are in the middle of creating new boards, a working board, and a board of advisors. Our plan is to consider not only member diversity, but regional diversity

John Caher: Are some areas of the state doing better or worse than other areas in terms of ADR diversity?

Sheila Sproule: I think I would reframe "better or worse" and say that there are areas that could be more inclusive. I think there's always room for improvement everywhere, but I think that the way we like to look at it is to say, "Given your community makeup, who's not at the table?" I think

different communities have different diversity needs considering the wide array of diversity, and making those assessments of race, gender, age, sexual orientation, and disability. So I think it's up to those that are defining diversity to figure out locally who's not here that should be here. Who can we reach out to? Those sorts of questions.

John Caher: I see. So, it needs to be representative of the community, really.

Sheila Sproule: I think so. Ideally, you do want that. I think that's where you gain so much benefit. I think people that come into ADR, come into a court, want to see themselves reflected in it, maybe even just visually within the courts or by the mediators or neutrals that are serving them.

John Caher: Now, you mentioned gender equality a moment ago, and I know a few years ago that the State Bar issued a kind of a groundbreaking report showing that women are grossly underrepresented among the ranks of paid mediators and arbitrators statewide. Why is there that lack of diversity? I don't know what the population is of women v. men in New York State, but basically 50/50. I don't know if 50% of attorneys are now women, but it's close. So why is there this lack of diversity?

Sheila Sproule: Well, first thank you for saying that because we borrowed heavily from that report and we learned a lot from other professions, especially the legal profession.

Like you said, many ADR professionals are also attorneys. I think there's a lot of reasons for it. I think dispute resolution organizations and courts have expressed that there's difficulty in ensuring a diverse pool of practitioners. I think they operate also with their own criteria for placing practitioners on their rosters. So, for instance, if you have a specific specialty within a case type—for instance, you have experience mediating construction cases and sit on a Commercial Division mediation panel, you might get more cases than someone that doesn't have that expertise, and that might be the first criteria for selecting someone.

I think these criteria then create another set of constraints and challenges which makes it difficult to ensure that the diverse practitioners on the roster will get chosen over the known practitioners who parties call upon more frequently.

I know we're talking about paid mediators, but there is a large contingency of volunteer dispute resolution professionals, and I think that there are many circumstances with courts using community dispute resolution center mediators who are volunteers. There's a difficulty

sometimes in attracting volunteers and I think if you are getting paid, yes, you might attract a wider pool of applicants.

But I think another part of this diversity conversation is, if you think about the pipeline into the field, there's a lot of barriers. There's training expenses. Training is very expensive and there's a lack of public awareness about careers in ADR, and so mostly you do have people coming from the legal profession. As you know, the legal profession, as you stated, is not very diverse either. I also think there are barriers to getting the necessary experience to be on a roster and finding opportunities, getting a mentor, or even just getting "known" in the field.

Then finally, I think the term "diversity" has become a broad umbrella term that is not always defined consistently. I think people look at the word "diversity" and they can apply different definitions to that. It's all somewhat subjective based on what the needs are of the provider that's looking for a diverse roster.

John Caher: How would you define diversity?

Sheila Sproule: Well, to me diversity is broader. It's race, gender, sexual orientation, religion, disability. But I often think that sometimes people define diversity by diverse experiences or backgrounds or professions. That, of course, doesn't take into consideration individual characteristics.

John Caher: I understand.

Sheila Sproule: The word "diversity" seems to be a buzz word for just race, and people don't realize the other elements that could be included or that I think should be included in that term.

John Caher: I see. Well, now that I've buttered you up, let me put you on the spot. So why is this an issue for Sheila Sproule? What got you interested in this and why did you found The Inclusion Network?

Sheila Sproule: Well, this is an important issue for me because the work we do in ADR impacts everyone and because of that, I believe that the field should reflect that diversity, the diversity of the communities that we serve. As a member of the field, I feel an obligation to address what I see as important issues and here we're talking about the lack of diversity in the field, which I think is a pretty big issue.

I think much of what we need to address goes much deeper because of the many reasons we lack diversity in ADR is similar to why it's lacking in

other fields. I make the connection with the fact that we have a history of systemic racism in our country and we have to understand that where we are today reflects that history, and also the other isms reflect where we are today.

What made me hopeful in bringing together the ADR inclusion network is that we're having the conversation and we're saying ... And I have to point out that I've learned this and so much more from Tony Walters, who is on the steering committee for the ADR Inclusion Network and has really become a mentor to me... but we're saying we all have implicit biases and they operate within us every day. So how can we become aware of them and work toward making change every day in our personal lives and as a group of people dedicated to making change? This is about, to me, accepting things as they are and not pointing fingers, but just saying, "Knowing what we know, how can we move forward?"

John Caher: That's a great way to put it. Now with your law degree from a prestigious university, you would have had lots of options. You could have gone into many different fields of law. Why did you gravitate to this?

Sheila Sproule: Well, when I was in my third year, I went to Fordham, as you said, and I took the mediation clinic, ran by Professor [Jacqueline] Nolan-Haley; many in the field would know that name. We would go to Small Claims Court in New York County and mediate cases like landlord tenant cases, roommate issues, taxi cab accidents. It opened my eyes to a whole other way of resolving disputes that provided people with more options to resolve the issues on their own and with often much broader remedies than would otherwise be available in court. And that was powerful. I love the principles of mediation where you hand the power over to the parties, which in court is traditionally held by the judge, and you provide a quality process that allows them to make informed decisions as to if and how they themselves would like to move forward.

John Caher: That's a beautiful way to put it. Of course, lawyers are, at their core, problem solvers, right? That's what you do.

Sheila Sproule: Yes. That's a good point. I think that's helpful, but I think that the training that we get as lawyers is different than the training that we get as mediators. So there's always going to be a line you have to walk, which is as an attorney, you want to solve everyone's problem, but as a mediator, your role is to use the skills that you have to allow the parties to start making decisions, brainstorming, coming up with solutions on their own and letting them decide how do they want to resolve this?

John Caher: Now, if someone wants to get involved in this, someone wants to join you on the Network bandwagon, how do they do it?

Sheila Sproule: Anyone that's interested in joining can sign up through our website and it's www.ADRdiversity.org. That's one word, "ADR DIVERSITY," or they can email us at Contact@ADRdiversity.org, and either I or someone on our team will respond to them. We love learning from others and having others join these conversations and strongly believe that we need everyone's voice involved in order to effectuate real change.

John Caher: That's great. Sheila, thank you for your time and thank you for the work that you do in this important field.

Sheila Sproule: Oh, thank you, John. I appreciate this opportunity.